

SEP 02 2009

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOEL DIAZ ROLDAN,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 08-70571

08-72131

Agency No. A019-079-462

MEMORANDUM^{*}On Petitions for Review of Orders of the
Board of Immigration AppealsSubmitted August 20, 2009^{**}

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

In these consolidated petitions for review, Joel Diaz Roldan, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's removal order,

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

and its order denying his motion to reconsider. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review de novo, *Sandoval-Lua v. Gonzales*, 499 F.3d 1121, 1126-27 (9th Cir. 2007), and we deny the petitions for review.

The BIA did not err in concluding that Diaz Roldan is removable as an aggravated felon under 8 U.S.C. § 1227(a)(2)(A)(iii) because his conviction under California Penal Code § 211 categorically constitutes a crime of violence and Diaz Roldan was sentenced to a term of imprisonment of at least one year for his crime. *See* 8 U.S.C. § 1101(a)(48)(B); *United States v. McDougherty*, 920 F.2d 569, 573 (9th Cir. 1990) (“[R]obbery under California law is . . . by definition a crime of violence.”). The fact that Diaz Roldan’s sentence was not imposed until after he violated his probation is not legally significant. *United States v. Jimenez*, 258 F.3d 1120, 1126 (9th Cir. 2001).

The BIA did not abuse its discretion in denying Diaz Roldan’s motion to reconsider because the motion failed to identify any error of law or fact in the BIA’s prior order. *See* 8 C.F.R. § 1003.2(b)(1).

Diaz Roldan’s remaining contentions lack merit.

PETITIONS FOR REVIEW DENIED.